

**Enrolled Memorandum of the Meeting
Study Session/Meeting Convened Electronically
Twenty-Ninth Town Council of Highland
Monday, April 06, 2020**

The Twenty-Ninth Town Council of the Town of Highland, Lake County, Indiana met *electronically* in a study session on **Monday, April 06, 2020** at 6:30 O'clock P.M., in the regular place, the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Special note: This meeting was convened allowing members of the Town Council to participate electronically without being physically present, be counted in the quorum and able to simultaneously listen and respond to matters taken up in the meeting, all pursuant to Governor Holcomb's Executive Orders 20-04 and 20-09 allowing meetings to be convened pursuant to IC 5-14-1.5-3.6 for the duration of the Corona Virus COVID 19 emergency. Social distancing and sheltering in place also ordered by the Governor as part of slowing the spread of the virus.

The meeting was streamed live on the Town of Highland, Indiana Facebook Page.

Silent Roll Call: Councilors Bernie Zemen (participating electronically), Mark Herak (participating electronically but on the premises), Mark J. Schocke (participating electronically but on the premises), Thomas Black (participating electronically) and Roger Sheeman (participating electronically) were present as indicated. The Clerk-Treasurer, Michael W. Griffin was present (participating electronically but on the premises) to memorialize the proceedings. A quorum was attained.

Officials Present: John P. Reed, Town Attorney; John M. Bach, Public Works Director, were present (both participating electronically).

Additional Officials Present: Ed Dabrowski, IT Consultant (Contract); was present.

General Substance of Matters Discussed.

1. **Discuss the extension of the authority of the Municipal Executive under IC 10-14-3-29, which expires on April 13 without action by the Town Council.** The Town Council noted that the emergency authority enabled when the Town Council President issued Proclamation 2020-02 and extended by the Town Council, by its passage and adoption of Enactment No. 2020-20 would soon expire.

The Town Council discussed the merits of extending the authority, noting that the shelter in place and related emergency orders from the Governor did not suggest that the Coronavirus emergency would be over soon. There was no objection to preparing an extending enactment for consideration by the Town Council at its meeting of April 13, 2020.

2. **Discuss the current sidewalk replacement program of the Town.** The Town Council and the Public Works Director discussed the elective sidewalk replacement program and the sidewalk maintenance program.

Sidewalk replacement. The elective program was described as allowing residents to seek to have portions of sidewalk replaced. The Town of Highland provides the break-up of the existing sidewalk. The resident then either pays to the Town an amount based upon the length of sidewalk to be replaced using the unit price of the Town's vendor or the resident may elect to use an alternative vendor.

Enforced Sidewalk Replacement. It was noted that the first enforced sidewalk replacement ordinance was passed as Ordinance No. 999, now codified as HMC Section 8.10.080. This portion of the code identifies the Building Commissioner or his designee as the enforcement officer rather than the Public Works Director for sidewalk replacement.

It was further discussed that the provisions allowing for enforceable assessments have not been used owing to a perceived reluctance from previous town councils to impose them in this instance.

The discussion included referencing the case, Town of Highland v. Zerkel, 659 N.E.2d 1113 (Ind. Ct. App. 1996), which disallowed Highland's motion for summary judgement after an evidentiary hearing, for Highland's then failure to establish a "policy oriented decision-making process" with regarding to sidewalk maintenance. The Town Council President noted the case and shared it was the case on point he used to successfully sue a nearby municipality for a client. The Town Council President and the Public Works Director discussed the particulars of the sidewalk inspection program, its frequency and how it informs the decisions for repair.

The Town Council discussed the notion of whether the Town could install sidewalks in those few places where there is no sidewalk. The Town Council discussed the resources available to pay for sidewalk replacement. There was a suggestion that the Ford Foundation might be a source for grants. It was noted that there was over 150 miles of sidewalk to maintain.

The Town Council discussed the need to change the language in Section 8.10.080 that identifies the Building Commissioner rather than the Public Works Director as the responsible administrator of this program.

8.10.080 Repair and maintenance of sidewalks and driveways.

- (A) Responsibility of Repair and Maintenance of Abutting Sidewalks and Driveways. The responsibility for the repair and maintenance of sidewalks and driveways within the town is hereby deemed to be that of abutting property owners. Property owners shall be responsible for maintaining the abutting sidewalks in a reasonably safe condition, and shall repair and maintain the abutting sidewalk at their own expense as and when needed, in the opinion of the building commissioner or his designee.
- (B) Notice of Order to Repair. Should a property owner fail to maintain his or her abutting sidewalk and/or driveway in a reasonably safe condition, then, in the interest of the health, safety and general welfare of the public, the town, in its sole discretion, may issue a notice or an order to repair the sidewalk and/or driveway to the responsible owner.
- (C) Issuance and Service of Notice to Repair.
 - (1) Notice of an order to repair or improve any sidewalk and/or driveway within the town shall be issued by the building commissioner or his designee. The notice shall be addressed to the common address of the property in question and also to the address of the owner of the property, if different, and shall be sent by certified mail.
 - (2) The property owner shall perform the requested repairs or improvements to the sidewalk and/or driveway within 30 days from the date of the notice as required by the notice, or any extended time therefrom allowed by the building commissioner or his designee.
- (D) Contract for Repair. In the event any property owner fails to comply with the order to repair any sidewalk or driveway within the town issued by the building commissioner or his designee, the town council, in its sole discretion, may have the sidewalk or driveway constructed or repaired. In causing the sidewalk to be constructed or repaired, the town council may let a general contract for the making or repairing of all sidewalks or driveways subject to the issued order. The letting of any contract under the provisions of this section shall

be governed by the laws of the state regulating contractual authority of the town council for such matters, as they may be amended from time to time.

- (E) Assessments. Assessments for the construction or repair of sidewalks or driveways shall be levied and collected pursuant to the terms of IC [36-9-36-1](#) et seq., as amended from time to time. The entire cost of the sidewalk or driveway improvements or repairs shall be assessed and apportioned against each lot or parcel of property abutting on the improvement in the proportion that the improved lineal front footage of each lot or parcel of property bears to the entire length of the improvement. [Ord. 999, 1998. Code 2000 § 172.22].
3. ***Discuss the prospect of having the Redevelopment Department Modify the Facade Improvement Grant program to include non-profit entities.*** Councilor Herak asked whether the current capital improvement grant program created by and administered under the urban renewal powers of the Redevelopment Commission.

Councilor Herak noted that the American Legion Post or the VFW could use some help in updating its façade. Councilor Herak and offered his view of the merits of such a move.

As the matter was discussed, it was noted that a policy objective of using redevelopment resources is to increase tax base, so the capital improvement grant program is confined to property tax paying property. Further, it was noted that it was unclear if any of the redevelopment commission's resources could be lawfully used for such a purpose as grants for non-profits without some nexus to economic development or redevelopment. It was further noted that the program was under the aegis of the Redevelopment Department and the Redevelopment Commission.

4. ***Discuss the prospect of establishing a five-year capital plan for the Town. It would likely involve convening all boards with capital authority to discuss what is already in place and what may be planned. (Town Council, Park and Recreation Board, Redevelopment Commission, Board of Waterworks Directors and Board of Sanitary Commissioners)***

The Town Council discussed the merit of convening the several department heads, and some representatives from the governing bodies to place capital plans for movable equipment and larger capital projects. The goal would be to integrate the capital planning and to optimize financial resources for support of these plans. Councilor Sheeman was informally assigned the task of pursuing the matter.

5. ***Discuss the status of rate review being conducted by Board of Sanitary Commissioners and the Board of Waterworks.*** Discuss whether it would be desirable to absorb the surcharges imposed by the online and electronic money processing bureaus, in the rate base rather than impose the charges directly on users of online, and credit card services to pay for municipal services. *(Whatever the position, the Boards of jurisdiction with each utility will have to consent.)*

The Town Council discussed the concept of absorbing the costs associated with the electronic processing vendor for customer payments made by credit card. It was noted that current utility rates and charges were not built for that cost. So a rate increase would likely be necessary.

The discussion included exploring the resources to market increased use of the existing no charge automatic payments by ACH. There are significant users of this service but it is not yet a majority of customers.

Preliminary sanitary rate work product. The Town Clerk-Treasurer discussed broadly the early indications from the preliminary rate study being conducted for

the Board of Sanitary Commissioners and its adequacy of rates and charges. The Board and London Witte noted that the rates and charges are not sufficient. The Clerk-Treasurer further noted that using the metric of a person making minimum wage, the current monthly sewage rates would require 3 hours per month to pay. This is just the sewage rate. The revised rate, if it allows for a significant transfer of surplus to the general fund, covers rates to support up to 1 million annually for replacement, and covering the cost associated with the Hammond and Highland work on the CSO and the SSO elimination plans, the sewage (storm and wastewater) would require 10 hours a month for the average bill. This is significant.

The Clerk-Treasurer suggested that a joint meeting of the Town Council and the Board of Sanitary Commissioners to review the ways and means of the rate study would be highly desirable. The Clerk-treasurer stated that the fixed costs for environmental management is not inexpensive. The Clerk-Treasurer suggested that the issue really urges serious consideration of pursuing shared sewage utility between and among neighboring communities. The Clerk-Treasurer stated his concern about "price point" of government.

6. ***If ready, mark-up of Ordinance to amend the municipal code establishing an honorific display policy for the Town.*** (Still being drafted) The Town Council and the Town Attorney briefly discussed the progress on the draft of a banner policy ordinance.
7. ***Discussion of the merits of obtaining electronic computer pads (iPads) for the Town Council to support meeting work of the Council.*** Noting the heavy paper load associated with council meetings and the increasing use of electronic communications, the Town Council discussed the merits of purchasing iPads for the use of the Town Council. It was noted that they would need to remain the property of the Town. The discussion included exploring pricing. The Public Works Director and the Clerk-Treasurer would follow-up. Councilor Sheeman expressed reservations about any such purchase.
8. ***Discussion of Community Events Commission and Community Events with a Beer Garden.*** The Town Council discussed the desirability of having a beer garden as part of the Independence Day Festival at Main Square.

Councilor Herak briefed the Town Council on the following provision in the Municipal Code governing the practice. He noted that the current language requires that a permit application be filed at least 120 days in advance of the event. Councilor Herak noted that if the Independence Day Festival is able to occur as scheduled and if the event is to include a craft beer garden, the 120 day window has already passed. There might be a need to amend this provision.

11.10.220 Alcohol and drugs.

- (A) No person shall drink, sell, possess, make a gift or offer for sale any alcoholic beverage or drugs within the parks nor shall any person within the parks use, administer, receive, offer for sale, possess, or make available to himself, or to any other person or animal, any alcoholic beverage or drugs.
- (B) Notwithstanding subsection (A) of this section and HMC [11.10.225](#), alcoholic beverages may be sold, dispensed, and consumed in the Lincoln Community Center solely in conjunction with a catered event, banquet, permitted event or special event conducted in and confined to a specific location designated for assemblies and rentals. This authorization is subject to provisions of IC 7.1-1 et seq., and [905 905](#) 1 et seq. No person shall use, administer, receive, offer for sale, possess or make available to himself or to any person or animal any drugs. [Ord. 1638 § 6, 2017].

The distinction for Main Square and Sharp Athletic Complex was noted too.

11.10.225 Special event or activity with alcohol (SEAP).

- (A) Notwithstanding HMC [11.10.220](#), alcoholic beverages may be sold, dispensed, and consumed solely in conjunction with a special event or activity authorized by a special event with alcohol permit (SEAP) issued by the park and recreation board, under this section and HMC [11.10.020\(D\)](#), and approved by the town council.
- (B) Unless there is an activity or event operating with a valid special exception permit issued by the park board under this section and HMC [11.10.020\(D\)](#), the prohibitions under HMC [11.10.220](#) still apply.
- (C) No special event with alcohol permit (SEAP) shall be issued by the park board under this section and HMC [11.10.020\(D\)](#), unless there is a companion event or activity for which a regular permit may be granted. A special event permit authorized under this section and HMC [11.10.020\(D\)](#) may not be granted where (1) there is no companion activity or (2) the sole activity or event is the sale, dispensing and consumption of alcohol.
- (D) A special event with alcohol permit (SEAP) authorized under HMC [11.10.020\(D\)](#) shall be only issued and valid for an event or activity limited to the following venues:
 - (1) Main Square Park;
 - (2) Sharp Athletic Complex.
- (E) No special event with alcohol permit (SEAP) shall be issued by the park board unless it also has been approved by the town council, according to this section.
- (F) A special event with alcohol permit authorized under this section and HMC [11.10.020\(D\)](#) requires the following process:
 - (1) Applicant filed request with park **at least 120 days** before the event;
 - (2) Parks and recreation superintendent will cause the application to be considered by the park board within a reasonable time;
 - (3) The park and recreation board will consider the matter at a regular or specially called meeting. If the park and recreation board favors the application, it will approve the permit subject to the approval of the town council;
 - (4) If the town council approves the application, the permit is granted. If it rejects the applicant or fails to act 30 or more days before the event, the permit is denied. [Ord. 1638 § 7, 2017].

There being no further business necessary or desired to be discussed by the Town Council, the *electronically convened* regular study session of the Town Council of **Monday, April 06, 2020**, was adjourned by the Town Council President at 8:40 o'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer